

**SPECIAL TOWN MEETING WARRANT**



**MONDAY, NOVEMBER 6, 2023**

**GRANITE VALLEY SCHOOL**

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

TOWN OF MONSON

SPECIAL TOWN MEETING

WARRANT

To any of the Constables of the Town of Monson in said county:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn all the inhabitants of the Town of Monson qualified to vote in Elections and Town affairs to meet at Granite Valley Middle School on Thompson Street on Monday, November 6, 2023, A.D. at 7:00 p.m. to act upon the following articles:

**Article 1:**

**Submitted by: Moderator**

**Required Vote: Majority**

To see if the Town will vote to authorize the Monson Select Board to petition the General Court for the passage of an Act relative to the Town of Monson entitled "An Act authorizing the town moderator of the Town of Monson to act as an election officer in certain elections." which provides as follows:

Section 1: Notwithstanding section 15 of chapter 54 of the General Laws or any other general or special law to the contrary, the town moderator in the Town of Monson may act as an election officer for any state or presidential primary or state election; provided, however, that said town moderator shall not act as an election officer where their name appears on the ballot.

Section 2: This act shall take effect upon its passage.

**Explanation:**

This article authorizes the Town Moderator of the Town of Monson to act as an election officer in certain elections (any state or presidential primary or state election) if approved by the Town Clerk and the Select Board provided his/her name does not appear on the ballot.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to approve article 1 as written.*

**Article 2:**

**Submitted by: Finance Director**

**Required Vote: Majority**

To see if the Town will vote to raise and appropriate or transfer and appropriate a sum of money, to the temporary Assessor's Clerk salary line or take any other action relative thereto.

**Explanation:**

This article provides funds for the temporary Assessor's Clerk. The primary objective of this proposed expenditure is to provide essential office support to the Assessor's Department, addressing specific needs and requirements within the department. The Assessor's Department plays a crucial role in local government, responsible for assessing property values and managing tax-related matters. In many instances, the department may face increased workloads. To ensure the efficient and effective operation of the Assessor's Office, the creation of a temporary Assessor Clerk position is necessary.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to raise and appropriate \$7,500 to the temporary Assessor's Clerk salary account.*

**Article 3:**

**Submitted by: Finance Director**

**Required Vote: Majority**

To see if the Town will vote to raise and appropriate or transfer and appropriate a sum of money, to the Finance Consultant services line or take any other action relative thereto.

**Explanation:**

This article provides additional funds for the Finance Consultant services line. This article will allow the town to continue maintaining uninterrupted financial operations in the municipality, especially during periods of staffing changes, turnover, and other related personnel gaps. The Finance Consultant or temporary hire would ensure that essential financial tasks continue without disruption, preventing delays in processes like payroll, and provide support to the finance team as determined necessary.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$20,000 from free cash to the finance consultant salary account.*

**Article 4:**

**Submitted by: Finance Director**

**Required Vote: Majority**

To see if the Town will vote to raise and appropriate or transfer and appropriate from available funds to the Treasurer Land Court fees expense account or take any other action relative thereto.

**Explanation:** Resolving tax title properties often requires a thorough title research process, which can be time-consuming and involve fees associated with Land Court proceedings. The purpose of this warrant article is to allocate funds to cover these fees including thorough research to allow the community to move forward in resolving tax title properties. Clearing these titles ensures that the municipality can recoup delinquent taxes, improve property conditions, and potentially return these properties to the tax rolls. It's essential for both financial reasons and community development.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$5,000 from free cash to the treasurer land court expense account.*

**Article 5:**

**Submitted by:** Finance Director

**Required Vote:** Majority

To see if the Town will raise and appropriate or transfer and appropriate a sum of money to the liability insurance expense account or take any other action relative thereto.

**Explanation:**

Insurance deductible to represent the town in an MCAD claim filed against the Town. The purpose of this fund transfer is to cover the insurance deductible expense associated with a legal claim filed with MCAD. This expense is incurred as part of the legal process associated with addressing such claims.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$5,000 from free cash to the insurance liability expense account.*

**Article 6:**

**Submitted by:** Finance Director

**Required Vote:** Nine-Tenths

To see if the Town will vote to transfer and appropriate a sum of money, to the Bills of Prior Years Account, or take any other action relative thereto.

**Explanation:** If a bill arrives after the start of the new fiscal year, for work done in the previous year, the Town cannot pay said bill without Town Meeting authorization. The prior year bills are for the following amounts and purposes:

- ESCO Phase 1 & 2 (Year 1 01/01/2022 – 12/31/2022) - \$11,498.08 (3% annual escalator)  
– Invoice date 3/6/2022
- ESCO Phase 1 & 2 (Year 2 01/01/2023 – 12/31/2023) - \$11,843.02 (3% annual escalator)  
– Invoice date 1/21/2023
- ESCO Change Order: \$19,400
- Pioneer Valley Planning Commission invoice: \$1,446.00
- Valley Green Shredding: \$30

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$44,218 from free cash to the prior year expense account.*

**Article 7:**

**Submitted by: Finance Director**

**Required Vote: Majority**

To see if the Town will vote to raise and appropriate or transfer and appropriate from available funds to the general fund operating budget to fund the ESCO Phase 3 MVP Assurance Program or take any other action relative thereto.

**Explanation:**

This article is needed to fund the ESCO Phase 3 invoice which includes a 3% annual escalator. As part of our contract, SIEMENS energy measures and verifies energy savings to guarantee them. The Measure and Verification Program is an essential component of our municipal ESCO project, designed to fulfill the contract energy saving terms.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$21,278 from free cash to the general fund operating budget.*

**Article 8:**

**Submitted by: School Committee**

**Required Vote: Majority**

To see if the Town will vote to raise and appropriate or transfer and appropriate a sum of money from available funds to the school general fund operating budget to cover electricity expenses or take any other action relative thereto.

**Explanation:** The proposed transfer of funds to the electricity accounts is a crucial step in fulfilling our financial obligations related to a net metering solar agreement, regardless of any national grid credits that may have accumulated.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$150,000 from free cash to the school general fund operating budget to cover electricity costs.*

**Article 9:**

**Submitted by: Finance Director**

**Required Vote: Majority**

To see if the Town will raise and appropriate or transfer and appropriate a sum of money to the Animal Inspector stipend salary account or take any other action relative thereto.

**Explanation:**

The Animal Inspector line has been adjusted to properly compensate for the number of barn inspections that need to be completed annually.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to raise and appropriate \$7,500 to the animal inspector salary account.*

**Article 10:**

**Submitted by: Select Board**

**Required Vote: Majority**

To see if the Town will transfer and appropriate a sum of money from the Veteran's Salary account to the Veteran's district services expense account to fund a regional veteran's district or take any other action relative thereto.

**Explanation:**

To pay the assessment costs related to forming a Veterans District with Wilbraham. By sharing the costs associated with veterans' services, individual municipalities can achieve cost savings while providing the necessary services. This allows for efficient use of taxpayer funds while still delivering high-quality services to veterans.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate a sum of money from Veteran's Salary account to the Veteran's Regional Services account.*

**Article 11:**

**Submitted by: Finance Director**

**Required Vote: Majority**

To see if the Town will raise and appropriate or transfer and appropriate a sum of money to the Treasurer Bank Fees expense account or take any other action relative thereto.

**Explanation:** The purpose of this transfer is to address an existing imbalance in an escrow account related to change orders that were processed under the ESCO project. The imbalance is due to a deficit in the escrow account, resulting in a shortage of funds to cover essential expenses. The proper funds are allocated but need to be expended from the proper appropriation account which requires a correction in the escrow balance. The transfer aims to restore the escrow account to its proper and fully funded state.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$3,000 from free cash to the treasurer bank fee expense account.*

**Article 12:**

**Submitted by: Finance Director**

**Required Vote: Majority**

To see if the Town will raise and appropriate or transfer and appropriate a sum of money to the Street Lighting Expense account or take any other action relative thereto.

**Explanation:** The primary purpose of transferring funds to the Street Lighting Maintenance Account is to establish a dedicated expense line for the ongoing maintenance and upkeep of our town's street lighting infrastructure. In many cases, towns own their streetlights, which means that the responsibility for maintaining and repairing these essential fixtures falls on the municipality. This fund transfer is intended to address this specific need.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to raise and appropriate \$10,000 to the street lighting expense account.*

**Article 13:**

**Submitted by:** Finance Director

**Required Vote:** Majority

To see if the Town will vote to raise and appropriate or transfer and appropriate from available funds to the Ambulance Billing services expense account or take any other action relative thereto.

**Explanation:** The transfer is needed to fulfill a contractual increase related to the ambulance billing service that increased after setting the FY24 budget.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to raise and appropriate \$15,000 to the ambulance billing services account.*

**Article 14:**

**Submitted by:** Water and Sewer Commission

**Required Vote:** Nine-Tenths

To see if the Town will vote to transfer and appropriate from the Sewer Enterprise Retained Earnings a sum of money to the Sewer Department Maintenance of Joint Treatment Prior Year Bill Account or take any action relative thereto.

**Explanation:**

This transfer and appropriation is necessary to pay the invoices received after the end of the fiscal year for various capital improvements.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$13,000 from the Sewer Enterprise Retained Earnings to the Sewer Department Maintenance of Joint Treatment prior year bill account.*

**Article 15:**

**Submitted by:** Water and Sewer Commission

**Required Vote:** Majority

To see if the Town will vote to transfer and appropriate a sum of money from the Sewer Enterprise Retained Earnings to the consulting service line item or take any other action relative thereto.

**Explanation:**

This transfer and appropriation is necessary to pay costs related to engineering services associated with the National Pollutant Discharge Elimination System (NPDES) co-permittee assistance program.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$10,000 from the Sewer Enterprise Retained Earnings to the Sewer Consulting Service line item.*

**Article 16:**

**Submitted by: Water and Sewer Commission**

**Required Vote: Two-Thirds**

To see if the Town will appropriate a sum of money to pay the Town's allocable share of replacing the roof at the Palmer Water Pollution Control Facility, including the payment of all costs incidental and related thereto; to determine whether this amount shall be raised by borrowing or otherwise, or to take any other action relative thereto.

Motion: That the Town appropriates \$1,000,000.00 to pay the Town's allocable share of replacing the roof at the Palmer Water Pollution Control Facility, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to G.L. c. 44, §7(1), or any other enabling authority, and to issue bonds or notes of the Town therefor.

**Explanation:**

This authorization is necessary in order for the Town to have adequate funding to pay its 20% portion of the costs associated with the roof replacement at the Palmer Water Pollution Control Facility. The Town is contractually obligated to pay its 20% share.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote the Town appropriates \$1,000,000 to pay the Town's allocable share of replacing the roof at the Palmer Water Pollution Control Facility, pump station 1, pump station 2 and including the payment of all costs incidental and related thereto, and that to this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant G.L. c. 44, Section 7 (1), or any other enabling authority, and to issue bonds or notes of the Town therefor.*

**Article 17:**

**Submitted by: Community Preservation Committee**

**Required Vote: Majority**

To see if the Town will vote to appropriate \$3,300.00 for the purpose of preserving certain Select Board meeting minutes. The funds will transfer from the Community Preservation Program Historic Preservation account pursuant to Massachusetts General Laws, Chapter 44B or any other enabling authority. Said funds are to be expended under the administration of the Community Preservation Committee, or take any other action relative thereto.

**Explanation:** The Town Clerk has been restoring and preserving town records. The preservation of these Select Board meeting minutes is part of that on-going effort.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$3,300 from community preservation historic preservation account for the preservation of Select Board meeting minutes.*



**Article 18:**

**Submitted by: Community Preservation Committee**

**Required Vote: Majority**

To see if the Town will vote to appropriate the sum of \$28,173 for the installation of a pavilion at Flynt Park. The money shall be transferred from the Budgeted Reserve Account under the Community Preservation Program for the support of recreational and community activities pursuant to Massachusetts General Laws, Chapter 44B or any other enabling authority. Said funds to be expended under the administration of the Community Preservation Committee, or take any other action relative thereto.

**Explanation:** Monson Parks and Recreation is seeking funds to construct a pavilion at Flynt Park.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$28,173 from Community Preservation budgeted reserve account for the installation of a pavilion at Flynt Park.*

**Article 19:**

**Submitted by: Community Preservation Committee**

**Required Vote: Majority**

To see if the Town will vote to appropriate the sum of \$50,000 for the installation of a paved play area and basketball court near the playground at the Granite Valley School to facilitate play for students and community members that use said area. The money shall be transferred from the Budgeted Reserve Account under the Community Preservation Program for the support of recreational and community activities pursuant to Massachusetts General Laws, Chapter 44B or any other enabling authority. Said funds to be expended under the administration of the Community Preservation Committee, or take any other action relative thereto.

**Explanation:** Monson Public Schools is requesting funds to create a full size basketball court at Granite Valley School. The court will also be utilized as a recess area for students during the school day.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$50,000 from Community Preservation Budgeted Reserve account for the installation of a paved play area and basketball court near the playground at Granite Valley School.*

**Article 20:**

**Submitted by: Community Preservation Committee**

**Required Vote: Majority**

To see if the Town will vote to appropriate \$18,400.00 for the purpose of creating a trail plan for Flynt Park. The funds will transfer from the Community Preservation Program Open Space account pursuant to Massachusetts General Laws, Chapter 44B or any other enabling authority. Said funds are to be expended under the administration of the Community Preservation Committee, or take any other action relative thereto.

**Explanation:** The Replanting Monson Tree Committee is requesting \$18,400 for major trail work on the trail system in Flynt Park. This money will sponsor an Americorp trail crew for two weeks as they address erosion and construct a stairway on a steep section of trail.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to transfer and appropriate \$18,400 from Community Preservation Open Space account for the purpose of creating a trail plan for Flynt Park.*

**Article 21:**

**Submitted by: Select Board**

**Required Vote: Majority**

To see if the Town will vote to amend Article 6, Section 1 of the General Bylaws and further that the Town authorize non-substantive changes to the numbering and lettering of the Bylaw in order to make it consistent with the numbering format and sequencing of the code of the Town of Monson, as follows:

Article 6, Section 1 shall be amended by deleting the crossed-out language below and replacing it with the bolded and underlined language.

**ARTICLE 6 – LEGAL AFFAIRS:**

Section 1. The Selectmen shall annually, in the month in which the Annual Town Meeting is held and after the adjournment thereof, appoint ~~a citizen~~ an **attorney and/or firm** who is a member of the bar in good standing to serve as Town Counsel for the term of one year from the first day of the month following said adjournment and until his successor is appointed and enters upon the performance of his duties. They shall likewise fill any vacancy in said office for the unexpired term and may employ special counsel to assist the Town Counsel whenever, in their judgment, necessity therefore arises.

**Explanation:**

This article removes the residency requirement for Town Counsel.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to approve article 21 as written.*

**Article 22:**

**Submitted by: Planning Board**

**Required Vote: Two-Thirds**

To see if the Town will vote to Amend § 4.1 Floodplain District of the Zoning Bylaws in its entirety by deleting the current language in its entirety and replacing it and further that the Town authorize non-substantive changes to the numbering and lettering of the Bylaw in order to make it consistent with the numbering format and sequencing of the code of the Town of Monson, as follows:

**The proposed new §4.1 Floodplain District is included on Attachment A to this Warrant.**

**Explanation:**

As discussed at the Planning Board meetings on May 16<sup>th</sup>, 2023 & June 20<sup>th</sup>, 2023, we submit the proposed changes to the Monson Zoning Bylaw regarding Floodplain District to allow it to meet the minimum requirements outlined for the National Flood Insurance Program that have been set forth by Federal Emergency Management Agency's (FEMA).

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to defer the recommendation to the planning board.*

**Article 23:**

**Submitted by: Planning Board**

**Required Vote: Two-Thirds**

To see if the Town will vote to Amend § 1.7 Definitions and §3.0 Use and Dimensional Regulations (Table 1) of the Zoning Bylaws of the Town of Monson and further that the Town authorize non-substantive changes to the numbering and lettering of the Bylaw in order to make it consistent with the numbering format and sequencing of the Zoning Bylaws of the Town of Monson:

**The proposed amendments to §1.7 Definitions and §3.0 Use and Dimensional Regulations (Table 1) are on Attachment B to this Warrant.**

**Explanation:**

As discussed at the Planning Board on October 5, 2023, the Planning Board discussed the new definition and use categories for self storage facilities. People in the audience spoke in favor of the proposed zoning bylaw change and no one spoke in opposition.

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to defer the recommendation to the planning board.*

**Article 24:**

**Submitted by: Planning Board**

**Required Vote: Two-Thirds**

To see if the Town will vote to amend the Zoning Bylaws of the Town of Monson and further that the Town authorize non-substantive changes to the numbering and lettering of the Bylaw in order to make it consistent with the numbering format and sequencing of the code of the Town of Monson, as follows:

- (1) Recodify §1.7 Definition – Cannabis to a new §1.8 Definition – Cannabis – the existing text to remain unchanged only the numbering of section of the Zoning Bylaws.
- (2) Add a new §1.9 entitled “Definitions – Floodplain” the text of which is included on **Attachment C** to this Warrant.

**Explanation:**

As discussed at the Planning Board meeting on June 20<sup>th</sup>, 2023, we submit the proposed changes to the Monson Zoning Bylaw regarding the Definition section(s) for the following reasons:

- Re-codifying will provide ease of navigating through the Bylaw, create uniformity, and a professional layout.
- The addition of the new section, §1.9 Definitions- Floodplain is a requirement and meets the minimum requirements outlined for the National Flood Insurance Program that have been set forth by Federal Emergency Management Agency's (FEMA).

**Recommendation:** *Finance Committee Recommends, and I Move the Town Vote to defer the recommendation to the planning board.*

**Article 25: Citizen's Petition****Submitted by: Reed Coles**

To see if the town will vote to: Reverse the position of the vote of September 12, 2023 to remove the house at 200 Main Street Monson MA from occupancy by the Monson Arts Council and given to the Monson Fire Department for their use during necessary renovations and leave the Town Hall Annex with its present occupant, the House of Art.

Brief Summary: (purpose of or reason for the proposed article)

The Monson Board of Selectman on September 12, 2023 with no hearing and no prior notification voted to remove the house at 200 Main Street Monson MA from occupancy by the Arts Council.

The town of Monson voters have already voted to pay \$200,000 for SAID renovations.

Town of Monson voters in their vote included necessary funds for the Fire Department to use in establishing temporary quarters during renovation.

The Select Board also voted to demolish this building which has served as the House of Art for thirty (30) years, once the Fire Department moves to newly renovated quarters and to use part of the land for parking.

The Monson Arts Council efforts on behalf of the Arts have provided leadership and inspiration to hundreds of artists and many local communities in our region resulting in a thriving artistic energy and outstanding Arts programming right here in Monson.

**Article 26: Citizen's Petition**

**Submitted by: Roxanne Gunther**

To see if the Town will vote: For the Immediate Dismissal of Jennifer Wolowicz, Town Administrator, for just cause or to act on anything related thereto.

Brief Summary: (purpose of or reason for the proposed article)

We are asking for the immediate dismissal of Jennifer Wolowicz, Town Administrator, for the Town of Monson MA

The Select Board, has been asked repeatedly to follow disciplinary procedures as it applies to all employees, of which Jennifer Wolowicz is one, and has consistently refused to do so

We have obtained sufficient evidence of Jennifer Wolowicz, Town Administrators' repeated verbal abuse to town citizens and going against the Town Code of Conduct policy to determine that this conduct has occurred on numerous occasions

The town rules and/or policies have not been applied consistently to all citizens and employees

No discipline has been dispensed to Jennifer Wolowicz, while several other employees and citizens have been reprimanded and/or intimidated for similar or lesser causes.

Hereof fail not and make do return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this 20 day of October 2023.

*Patricia A. Oney*  
Patricia A. Oney

*John R. Morrell*  
John R. Morrell

Peter Warren *Peter Warren*

MONSON SELECTBOARD

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss.

Pursuant to the within Warrant, I have notified and warned the legal voters of the Town of Monson by posting an attested copy of said Warrant in at least two places in said Monson fourteen days at least before the time appointed for holding the meeting aforesaid.

A true copy,  
ATTEST:

*10/23/23*  
*Joseph W. Loggiani*  
Constable of Monson

*Mary F. Watson*  
Town Clerk

## **Attachment A**

### **SECTION 4.0 OVERLAY DISTRICT REGULATIONS**

#### **4.1 FLOODPLAIN DISTRICT**

**4.1.1 Purposes.** The purposes of the Floodplain Overlay District is:

1. To provide that lands in the Town of Monson subject to seasonal or periodic flooding described hereinafter shall not be used for residence or other purposes in such manner as to endanger the health or safety of the occupant thereof.
2. To protect, preserve and maintain the water table and water recharge areas within the Town so as to preserve present and potential water supplies for the public health and safety of the Town of Monson.
3. To assure the continuation of the natural flow pattern of the water course(s) within the Town of Monson in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.

**4.1.2 Scope of Authority.** The Floodplain Overlay District is an overlay district and shall be superimposed on the other districts established by this Bylaw. All regulations of the Monson Zoning Bylaw applicable to such underlying districts shall remain in effect, except that where the Floodplain District imposes additional regulations, such regulations shall prevail.

The Town of Monson hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town.

#### **4.1.3 District Delineation.**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Monson designated as Zone A, AE, AH, AO, or A99 on the Hampden County Flood Insurance Rate Map (FIRM) dated June 7<sup>th</sup>, 2023 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated June 7<sup>th</sup>, 2023. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board Office, Building Official and Conservation Commission.

**4.1.4 Permitted Uses.** In the Floodplain District no new building shall be erected or constructed, and no existing structure shall be altered, enlarged or moved; no dumping, filling or earth transfer or relocation shall be permitted; nor shall any land, building or structure be used for any purposes except:

1. Conservation of water plants and wildlife.
2. Outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted, but excluding buildings and structures.
3. Wildlife management areas, foot, bicycle, and/or horse paths and bridges, provided such uses do not affect the natural flow pattern on any watercourse.
4. Grazing and farming, including truck gardening and harvesting of crops.
5. Forestry and nurseries.
6. Dwellings lawfully existing prior to the enactment of this Bylaw with a valid Permit for Substantial Improvement.
7. Temporary, non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

**4.1.5 Uses by Special Permit.** Uses allowed by special permit from the Special Permit Granting Authority in accordance with Section 7.3 within the Floodplain District are described in Section 3.0 and shall be subject to the following additional restrictions, subject to the Floodplain Administrators approval:

1. **Permits are required for all proposed development in the Floodplain Overlay District;** A permit is required for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
2. **Assure that all necessary permits are obtained.** The town's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits and must demonstrate that all necessary permits have been acquired.
3. **The following requirements apply in the Flood Plain District:** In A Zones, in the absence of FEMA Baseline Flood Elevation (BFE) data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or



above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

**4. The following provisions apply in the Floodway designated on the FBFM:**

- (a) Any encroachment in the Floodway meeting the above standard must also comply with the floodplain requirements of the State Building Code.
- (b) In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (c) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses prepared by a Registered Professional Engineer in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

**4.1.6 Additional Special Permit Criteria.** In addition to the Special Permit criteria specified in Section 7.3, the Special Permit Granting Authority may grant a Special Permit if it finds:

- 1. The proposed use will not create increased flood hazards, which shall be detrimental to the public health, safety and welfare; and,
- 2. The proposed use will comply in all respects to the provisions of the underlying District or Districts within which the land is located.
- 3. The proposed use is in compliance with all applicable state and federal laws, including the Massachusetts Building Code and the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40).

**4.1.7 Prohibited Uses.** The following uses are specifically prohibited and may not be allowed by special permit:

- 1. Solid waste landfills, junkyards and dumps.
- 2. Business and industrial uses, not agricultural, which manufacture, use process, store or dispose of hazardous materials or wastes as a principal activity, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning and auto body repair.

3. The outdoor storage of salt, other de-icing chemicals, pesticides, or herbicides shall be prohibited without suitable overhead protection from weather. All storage shall be within an impervious containment area.
4. Draining, dredging, excavation or disposal of soil or mineral substances, except as necessary for permitted uses or uses allowed by special permit, as specified in the Earth Removal Bylaw, Section 6.6.

#### **4.1.8 Subdivision proposals**

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

1. Such proposals minimize flood damage.
2. Public utilities and facilities are located & constructed so as to minimize flood damage.
3. Adequate drainage is provided.

#### **4.1.9 Base flood elevation data for subdivision proposals**

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

#### **4.1.10. Recreational vehicles**

In A1-30, AH, AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

#### **4.1.11 Watercourse alterations or relocations in riverine areas**

In a riverine situation, the Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities, especially upstream and downstream
2. Bordering States, if affected
3. NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation
4. NFIP Program Specialist  
Federal Emergency Management Agency, Region I

#### **4.1.12. Requirement to submit new technical data**

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

1. NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation
2. NFIP Program Specialist

Federal Emergency Management Agency, Region I

**4.1.13. Variances**

1. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP). A variance from the Zoning Board of Appeals from these floodplain bylaws must meet the requirements set out by State law and the Monson Zoning Bylaws, and may only be granted if: 1 ) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.
2. Variances to building code floodplain standards. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community's files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that;
  - (a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
  - (b) such construction below the base flood level increases risks to life and property.
  - (c) Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

**4.1.14. Disclaimer of liability**

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection. If any section, provision, or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

## **Attachment B**

### **Add the following New Definitions to Section 1.7:**

**Self-Service Storage Facility** – A business establishment consisting of a structure or group of structures containing separate storage spaces leased to individuals for storage of goods, products, materials, or other objects. There will be no outdoor storage of materials. Additionally, there is to be no wholesale or retail trade allowed within the premises, with the exception that the facility owner will be allowed to liquidate the contents of unit(s).

### **Add New Section under Section 3.0 Schedule of Use Regulations (Table 1) under Business Uses:**

Land Uses Classification	Standard & Conditions	Zoning District									
		RV	RR	CC	GC	CR	I	RL	WSP	FPD	
Self-Service Storage Facility	Provided there is no manufacturing, processing, or sale of materials.	N	N	Y	Y	N	Y	N	Y	N	

## **Attachment C**

### **DEFINITIONS**

#### **1.9 DEFINITIONS - FLOODPLAIN**

***These definitions shall only apply to this floodplain district section of the Zoning bylaw.***

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY.** The channel of the river, creek or other watercourse and the adjacent land areas must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
  - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
  - (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (1) By an approved state program as determined by the Secretary of the Interior or
    - (2) Directly by the Secretary of the Interior in states without approved programs.
- [US Code of Federal Regulations, Title 44, Part 59]

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on

or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis.
  - (b) 400 square feet or less when measured at the largest horizontal projection.
  - (c) Designed to be self-propelled or permanently towable by a light duty truck; and
  - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- [US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications

determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

## **1.9 ACRONYMS**

BFE - Baseline Flood Elevation

FEMA – Federal Emergency Management Agency

FIRM – Flood Insurance Rate Map

FIS – Flood Insurance Study

## **1.9 FLOOD ZONES AREA DEFINITION**

A – an area of special flood hazard without water surface elevations determined

AE – area of special flood hazard with water surface elevations determined.

AH – An area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

AO – An area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (*Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.*)

AR - Areas with a temporarily increased flood risk due to the building or restoration of a flood control system (such as a levee or a dam). Mandatory flood insurance purchase requirements will apply, but rates will not exceed the rates for unnumbered A zones if the structure is built or restored in compliance with Zone AR floodplain management regulations.

A99 – An area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

**A1 – 30 – An area of special flood hazard with water surface elevations determined.**